

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2003-41-S - ORDER NO. 2003-587

OCTOBER 1, 2003

IN RE: Application of Moore Sewer, Inc. for)	ORDER DENYING
Approval of an Adjustment of Rates and)	PETITION FOR
Charges to Reflect its Operations as a)	RECONSIDERATION
Collection-Only Utility.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) for decision on the Petition for Reconsideration of Order No. 2003-477 filed by Moore Sewer, Inc. (Moore Sewer or the Company). The Petition notes that the Order established a collection-only rate and miscellaneous rates and charges for the Company. Moore Sewer states that one of its requests in its original Application was for the ability to establish a surcharge of \$17.50 to recover revenues not collected by Moore Sewer for the Madera Subdivision during a twelve-month period. Further, the Company requested a waiver of Commission Rule 103-533(2)(a) in connection with its request to implement the \$17.50 surcharge, in order to have the ability to recover those revenues over the course of twelve months. The Petition states that the Commission did not address these issues during its deliberation and vote. However, the Company notes that the Order holds that the request of the Company for lost revenues is denied. Accordingly, Moore Sewer requests that the Commission reconsider its decision for the limited purpose of actually addressing the Company's request for lost revenues and waiver of the specific Commission rule. For the reasons stated below, we must deny the Petition.

Commission Regulation 103-533(2)(a) states: "If the utility has undercharged any customer as a result of a misapplied schedule, or any human or machine error, then the utility may recover the deficient amount as provided as follows: (a) If the interval during which a customer was undercharged can be determined, then the utility may collect the deficient amount incurred during that interval up to a maximum period of six months." Further, Commission Regulation 103-501(3) states that "In any case where compliance with any of these rules and regulations introduces unusual difficulty, such rules or regulations may be waived by the Commission upon a finding by the Commission that such waiver is in the public interest." Moore Sewer desires a waiver of Commission Regulation 103-533(2)(a) so that it can collect for the entire twelve months of revenue not billed to the Madera Subdivision.

Unfortunately, there is no evidence that would show that the Company's failure to collect the twelve-months revenue from its Madera Subdivision customers would fall under the provisions of Commission Regulation 103-533(2)(a). In other words, Moore Sewer would have to show that its failure to charge was the result of (1) a misapplied schedule; or (2) a human error; or (3) a machine error. It does not appear from the evidence that the failure to charge fell under any of these categories.

The pre-filed written testimony states the following: (1) the Company did not charge its Madera Subdivision customers anything for a period of twelve (12) months from September 2001 to September 2002; (2) the Company wished to institute a surcharge of \$17.50 per month per Madera customer for twelve months to collect the lost revenue, which amounts to \$38,850; (3) the inability to collect those revenues has been a

financial blow to the Company, and it is in the public interest for the Company to collect all revenues due, therefore, the Company requests a waiver of the six months limitation for collection of back revenues found in Commission Regulation 103-533(2)(a), so that, if the waiver is granted, the Company can collect the entire 12 months worth of back revenue. Prefiled testimony of William Teichman at 8-9.

Further, the oral testimony revealed only that William Teichman had a discussion with a member of the Commission Staff at the time, and as a result, decided not to charge the Madera customers. This was reflected, for example, in a question and answer colloquy between Chairman Clyburn and Staff witness William O. Richardson during the hearing.

Accordingly, there is no “misapplied schedule,” and there was certainly no “machine error.” Since Teichman made a conscious decision not to charge the Madera customers, there was no “human error” either. The fact that Teichman may have made the decision based on a discussion with the Commission Staff does not change the fact that he made a conscious decision not to charge the Madera customers. This is not to be construed as the “human error” contemplated by the Regulation. Our Supreme Court has discussed the effect of similar language appearing in a contract for utility service. The Court held that a provision in a contract between a former customer and a municipal electric utility stating that the customer was entitled to a refund when overcharges resulted from a misapplied schedule, error in reading the meter, a skipped meter reading, or any other human or machine error pertained to clerical errors. Moody v. City of Orangeburg, 319 S.C. 184, 460 S.E. 2d 374 (1995). This language is similar enough to

the language in our Regulation and was found in a similar enough context to be of value in interpreting our Regulation. We agree that the “human error” in our Regulation is limited to clerical error, as was the “human error” in Moody. Clearly, the “human error” in the present case was not a clerical error, but resulted from a conscious decision. Thus, the Regulation does not apply.

Therefore, the situation in the case at bar does not fit within the parameters of Commission Regulation 103-533(2)(a). In addition, although Moore Sewer may have suffered hardship from failure to collect the 12 months worth of revenue, there is no regulation to waive, since the situation in the case at bar did not fit the parameters of the Regulation.

Accordingly, the Petition is denied and dismissed. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn
Chairman

ATTEST:



Gary E. Walsh
Executive Director

(SEAL)